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8 *Attorney for amici curiae State of Montana and 20 other states*

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 AMERICAN FEDERATION OF
13 GOVERNMENT EMPLOYEES, AFL-
14 CIO, *et al.*,

15 Plaintiffs,

16 v.

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21 DONALD J. TRUMP, in his official
22 capacity as President of the United States,
23 *et al.*,

24 Defendants.
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Case No. 3:25-cv-03698-SI

**ADMINISTRATIVE MOTION BY
THE STATE OF MONTANA AND 20
OTHER STATES FOR LEAVE TO
FILE AMICUS BRIEF IN SUPPORT
OF DEFENDANTS' OPPOSITION TO
MOTION FOR TEMPORARY
RESTRAINING ORDER**

MOTION FOR LEAVE TO FILE AN AMICUS BRIEF

Pursuant to Local Rule 7-11, the State of Montana and 20 other states seek leave to file a brief as amicus curiae in support of Defendants’ opposition to Plaintiffs’ Motion for Temporary Restraining Order. A copy of the proposed amicus brief is attached as Exhibit A to this motion. Plaintiffs and Defendants do not oppose the 21 states’ motion to participate as amicus curiae.

I. Background and interest of Amici States

Amici curiae are the 21 States of Montana, Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia, and the Arizona Legislature (“Amici States”) which submit this brief in support of Defendants. The Supreme Court has recognized that the States have a unique role in preserving the vitality of the Constitution’s structural guarantees of liberty. *See, e.g., United States v. Lopez*, 514 U.S. 549, 575-77 (1995) (Kennedy, J., concurring). Because Plaintiffs seek to turn the separation of powers on its head and diminish the President’s authority under Article II of the Constitution, the Amici States have a direct and substantial interest in this case.

II. Reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the issues before the court

The amicus brief is intended to assist the Court in resolving the scope of the President’s authority to manage the federal workforce. The amicus brief discusses how Article II empowers the President to manage Executive Branch employees, not the courts. In addition, it discusses how Congress created a separate, comprehensive process for federal employment issues, which guts Plaintiffs’ Administrative Procedure Act claims. And courts should be cautious before interfering with the President’s Article II power to manage the federal workforce or Congress’ intent to resolve claims through a carefully defined statutory process. Finally, the brief discusses why Plaintiffs fail to show irreparable harm under the Supreme Court’s “genuinely extraordinary situation” standard and why the

1 balance of equities favors Defendants given that the President will suffer irreparable harm
2 by being unable to exercise his Article II powers if the Court grants the TRO.

3 **CONCLUSION**

4 For the foregoing reasons, the motion for leave to file the proposed amicus brief
5 should be granted. The proposed amicus brief is attached as **Exhibit A**. Pursuant to Civil
6 L.R. 7-2(c), a copy of the proposed order pertaining to this motion is attached as **Exhibit**
7 **B**.

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10 Dated: May 8, 2025

Respectfully submitted,

11
12 AUSTIN KNUDSEN
13 *Montana Attorney General*

14 /s/ Bryan Weir
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23 *20 other states*
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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of the filing to all attorneys of record in this case.

/s/ Bryan Weir